

114PCI-825 (FJS/ARM/mh)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ARTISAN AND TRUCKERS CASUALTY)	
COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:23-CV-04439
)	
BUKHARA TRANS, INC.,)	
)	
Defendant.)	

**PLAINTIFF ARTISAN AND TRUCKERS CASUALTY COMPANY'S
MOTION TO AMEND ITS MOTION FOR SUMMARY JUDGMENT**

NOW COMES Plaintiff, ARTISAN AND TRUCKERS CASUALTY COMPANY ("Progressive"), by and through its attorneys, SUDEKUM, CASSIDY & SHULRUFF, CHTD., and moves this Court to enter an Order allowing Progressive to amend its Motion for Summary Judgment pursuant to Federal Rules of Civil Procedure Rule 56. In support, Progressive states as follows:

1. On January 10, 2023, a lawsuit was filed against Bukhara Trans, Inc. ("Bukhara") because it failed to deliver frozen product in refrigeration trailer, which caused damage to the cargo. The lawsuit was filed in the United States District Court for the Western District of Arkansas, Fayetteville Division in the matter entitled, *H.C. Schmieding Produce Co., LLC, v. Bukhara Trans., Inc.*, Case No. 5:23-CV-05011-TLB seeking to recover damages in the amount of \$113,277.64. ("the Schmieding lawsuit").
2. On May 11, 2023, Progressive Insurance, the carrier for Bukhara, sent Bukhara a letter denying coverage.

3. On June 2, 2023, a Default Judgment was entered against Bukhara in the amount of \$119,133.30.

4. On July 10, 2023, Progressive filed the instant Complaint for Declaratory Relief alleging no duty to defend and indemnify Bukhara in the Schmieding lawsuit.

5. On November 10, 2023, Bukhara filed its Answer to Progressive's Complaint and filed its Counterclaim alleging a breach of contract, violation of Section 155 of the Illinois Insurance Code, and estoppel.

6. On June 25, 2024, this Court granted Progressive's Motion to Compel.

7. On October 28, 2024, Progressive filed its Motion for Summary Judgment.

8. On November 4, 2024, this Court denied Progressive's Motion for Summary Judgment based on the motion's non-compliance with Local Rule 56.1.

9. Progressive seeks to amend its Motion for Summary Judgment to be in compliance with Local Rule 56.1.

10. "Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery." Federal Rules of Civil Procedure Rule 56(b).

11. "If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may: (1) give an opportunity to properly support or address the fact; (2) consider the fact undisputed for purposes of the motion; (3) grant summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to it; or (4) issue any other appropriate order." Federal Rules of Civil Procedure Rule 56(e).

12. This is Progressive's first request to amend the Motion for Summary Judgment.

WHEREFORE, Plaintiff, ARTISAN AND TRUCKERS CASUALTY COMPANY, moves this Court for an order granting their Motion for Leave to Amend its Motion for Summary Judgment.

Respectfully Submitted,

SUDEKUM, CASSIDY & SHULRUFF, CHTD.

By: /s/ Aaron R. Mudlong
One of the Attorneys for Plaintiff ARTISAN AND
TRUCKERS CASUALTY COMPANY

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